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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Air Pollution Control Board
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Paul D. LaRock
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15th Floor Nashville, Tennessee 37243
<b>Phone:</b>	(615) 532-0545
<b>Email:</b>	<a href="mailto:Paul.LaRock@tn.gov">Paul.LaRock@tn.gov</a>

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	ADA Coordinator
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 22nd Floor Nashville, Tennessee 37243
<b>Phone:</b>	1-866-253-5827 (toll free) or 615-532-0200 Hearing impaired callers may use the TN Relay Service 1-800-848-0298
<b>Email:</b>	<a href="mailto:Jennifer.Katzenmiller@tn.gov">Jennifer.Katzenmiller@tn.gov</a>

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Conference Room A, 15 <sup>th</sup> Floor
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue
City:	Nashville, Tennessee
Zip:	37243
Hearing Date :	10/08/19
Hearing Time:	9:30 A.M. <input checked="" type="checkbox"/> X CST/CDT <input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

*If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Lida Warden at 615-532-0554 for more information.*

On October 5, 2016, the Environmental Protection Agency ("EPA") issued a final rule revising its public notice regulations for the New Source Review and Title V permit programs. This final rule removed the mandatory requirement to provide public notice for draft permits and other program actions by newspaper publication and instead provided for the electronic notice (e-notice) of these actions. Following EPA's ruling, the Tennessee Air Pollution Control Board is proposing a series of rule changes to eliminate the requirement of newspaper publishing of public notices for construction permits, permit rescissions, and major source permitting.

Additionally, an April 2012 memorandum from the EPA states the following in regards to New Source Review (NSR) public notice:

*[F]or purposes of minor NSR programs and permits, the "prominent advertisement" requirement at 40 CFR 51.161(b)(3) is media neutral. A state program may meet that requirement by using newspapers to publish those notices, or may opt to publish such notices elsewhere as long as it is reasonable to conclude that the public would have routine and ready access to any alternative publishing venues used and the use of the alternative publishing venues is consistent with the state's law or SIP."*

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board for the promulgation of amendments to the Tennessee Air Pollution Control Regulations under the authority of Tenn. Code Ann. § 68-201-105. The comments received at this hearing will be distributed to the members of the Tennessee Air Pollution Control Board for their review in regard to the proposed rule amendments. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-201 et seq. and will take place in Conference Room A of the William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243.

Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on October 8, 2019 at the following address: Technical Secretary, Tennessee Air Pollution Control Board, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten days prior to October 8, 2019 or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 22nd Floor, Nashville, Tennessee 37243, (615) 532-0200. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of these rule changes, you may contact Paul LaRock. For information about reviewing these documents, please contact Paul LaRock, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243, telephone (615) 532-0093.

Revisions considered at this hearing may be adopted by the Tennessee Air Pollution Control Board under Tenn. Code Ann. § 68-201-105, the Board general authority to promulgate rules.

Materials concerning the proposed actions will be available at [www.tn.gov/environment/topic/ppo-air](http://www.tn.gov/environment/topic/ppo-air) and also for public inspection during normal working hours starting on September 9, 2019, at the office of the Technical Secretary and the public depositories listed below:

Air Pollution Control Division  
15th Floor, WR Snodgrass TN Twr  
312 Rosa L. Parks Avenue  
Nashville, TN 37243

Pollution Control Division  
Metropolitan Health Dept.  
2500 Charlotte Avenue  
Nashville, TN 37209

Air Pollution Control Division  
Cookeville EFO  
1221 South Willow Avenue  
Cookeville, TN 38506

Air Pollution Control Division  
Knoxville EFO  
3711 Middlebrook Pk., Suite 220  
Knoxville, TN 37921

Air Pollution Control Division  
Johnson City EFO  
2305 Silverdale Road  
Johnson City, TN 37601-2162

Air Pollution Control Division  
Jackson EFO  
1625 Hollywood Drive  
Jackson, TN 38305

Air Pollution Control Division  
Columbia EFO  
1421 Hampshire Pike  
Columbia, TN 38401

Knox County Department of  
Air Quality Management  
140 Dameron Avenue, Suite 242  
Knoxville, TN 37917

Air Pollution Control Program  
Memphis /Shelby County Health Dept.  
814 Jefferson Avenue  
Memphis, TN 38105

Air Pollution Control Division  
Chattanooga EFO  
1301 Riverfront Parkway, Suite 206  
Chattanooga, TN 37402

Air Pollution Control Division  
Nashville EFO  
711 R. S. Gass Boulevard  
Nashville, TN 37243

Kingsport Public Library  
400 Broad Street  
Kingsport, TN 37660

Chattanooga-Hamilton County

U.S. EPA, Region IV, c/o Mr. Scott Davis, Chief

Air Pollution Control Bureau  
6125 Preservation Drive  
Chattanooga, TN 37416

APTMD - 12th Floor, Atlanta Federal Center  
61 Forsyth Street S.W.  
Atlanta, GA 30303

All persons interested in the air quality of the state of Tennessee are urged to attend and will be afforded the opportunity to present testimony to the hearing officer regarding the promulgation of amendments to the Tennessee Air Pollution Control Regulations. Any person desiring to present lengthy comments should be prepared at the hearing to offer a written statement to be incorporated into the record. Written statements not presented at the hearings will only be considered part of the records if received by 4:30 p.m. CDT on October 8, 2019, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15<sup>th</sup> Floor, Nashville, Tennessee 37243.

**Revision Type (check all that apply):**

☒ Amendment  
☐ New  
☐ Repeal

**Rule(s)** (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-03-09	Construction and Operating Permits
Rule Number	Rule Title
1200-03-09-.01	Construction Permits
1200-03-09-.02	Construction and Operating Permits

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-03-09  
Construction and Operating Permits

Amendments

Subparagraph (h) of paragraph (1) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

- (h) The Department shall on a monthly basis notify the public, ~~by advertisement in a newspaper of general circulation in each air quality control region in which the proposed source or modification would be constructed~~ via electronic notice on the Tennessee Department of Environment and Conservation website, of the applicants seeking to obtain a permit to construct or modify an air contaminant source. The notice shall specify the general vicinity or location of the proposed source or modification, the type of source or modification, and opportunity for public comment. Comments shall be in writing and delivered to the Technical Secretary within ~~thirty (30)~~ days after ~~the publication of~~ the date of public notice. Unless otherwise specified in the general permit, the requirements of this subparagraph are considered to be met for notices of intent for general permits as described in Rule 1200-03-09-.06 by monthly publication on the Department's website of a list of applicants for coverage under a general permit for construction or modification of an air contaminant source.

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Subpart (vi) of part 7 of subparagraph (a) of paragraph (4) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

- (vi) If the Technical Secretary rescinds a permit under this paragraph, the public shall be given adequate notice of the rescission. ~~Publication~~ Electronic notification of an announcement of permit rescission ~~in a newspaper of general circulation in the affected region on the Tennessee Department of Environment and Conservation website~~ within 60 days of the rescission shall be considered adequate notice.

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Subpart (iii) of part 2 of subparagraph (l) of paragraph (4) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

- (iii) Notify the public, ~~by advertisement in a newspaper of general circulation in each air quality control region in which the proposed source or modification would be constructed~~ via electronic notice on the Tennessee Department of Environment and Conservation website, of the application, the preliminary determination, the degree of increment consumption that is expected from the proposed source construction or modification, and the opportunity for comment at a public hearing as well as written public comment.

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Item (III) of subpart (viii) of part 2 of subparagraph (b) of paragraph (5) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

- (III) If the Technical Secretary rescinds a permit under this subparagraph, the public shall be given adequate notice of the rescission. ~~Publication by the Technical Secretary~~ Electronic notice of an announcement of rescission ~~in a newspaper of general circulation in the affected region on the Tennessee Department of Environment and Conservation website~~ within 60 days of the rescission shall be considered adequate notice.

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Item (III) of subpart (i) of part 3 of subparagraph (b) of paragraph (5) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

- (III) ~~A notice by prominent advertisement in the area affected of the location~~ Electronic notice on the Tennessee Department of Environment and Conservation website of the source information and analysis specified in Item (I) of ~~the Sub-part this subpart. This notice shall be provided by the source owner or operator. Should newspaper publication of the notice be deemed necessary by the Technical Secretary, the applicant shall bear the cost of such publication.~~

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Item (I) of subpart (i) of part 8 of paragraph (f) of paragraph (11) of Rule 1200-03-09-.02 Construction and Operating Permits is amended by deleting it in its entirety and substituting instead the following:

- (I) Notice shall be given ~~by the applicant by publication in a newspaper of general circulation in the area where the source is located~~ via electronic notice on the Tennessee Department of Environment and Conservation website or by other means designated by the Technical Secretary if necessary to assure adequate notice to the affected public. ~~The~~ Should newspaper publication of the notice be deemed necessary the applicant shall bear the expense of the newspaper notice. Notice shall also be given by the Technical Secretary to persons on a mailing list who meet the following criteria:
  - I. Such persons shall request to be on the list in writing on an annual basis.
  - II. Such persons shall pay a fee of \$10.00 per year to the Department to defray the cost of postage and handling and list management.

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: Michelle W. Owenby

Title of Officer: Director, Tennessee Division of Air Pollution Control

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

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Filed with the Department of State on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State